



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA-2013-0503; Amdt. No. 91-328]

RIN 2120-AK25

Adoption of Statutory Prohibition on the Operation of Jets Weighing 75,000 Pounds or Less That Are Not Stage 3 Noise Compliant

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rulemaking amends the airplane operating regulations to include certain provisions of the FAA Modernization and Reform Act of 2012 that affect jet airplanes with a maximum weight of 75,000 pounds or less operating in the United States. The law provides that after December 31, 2015, such airplanes will not be allowed to operate in the contiguous United States unless they meet Stage 3 noise levels. This final rule incorporates that prohibition and describes the circumstances under which an otherwise prohibited airplane may be operated.

DATES: This rule becomes effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Send comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Compliance with the prohibition in § 91.801(e) is required after December 31, 2015.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Sandy Liu, AEE-100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone: (202) 493-4864; facsimile (202) 267-5594; email: sandy.liu@faa.gov.

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SUPPLEMENTARY INFORMATION:

Good Cause for Immediate Adoption

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 USC 551 et seq.) authorizes agencies to dispense with notice and comment procedures for rules when the agency for “good cause” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking.

In February 2012, in section 506 of the FAA Modernization and Reform Act of 2012 (“the Act”), Congress prohibited the operation of jet airplanes weighing 75,000 pounds or less in the contiguous United States after December 31, 2015, unless the airplanes meet Stage 3 noise levels. The Act also describes certain circumstances under which otherwise prohibited operations will be allowed. These provisions have been codified at 49 USC 47534.

This final rule codifies the statutory prohibition and relieving circumstances into the regulations in 14 CFR. The FAA has no discretion to change any provision of the statute, and it is being codified into the regulations as adopted. The statute also directs the Secretary of Transportation to prescribe the regulations necessary to implement the statutory provisions.

Accordingly, the FAA finds that further public comment on the codification of these provisions is unnecessary.

Authority for this Rulemaking

The FAA’s authority to issue rules on aviation safety is found in Title 49 of the United

States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44715, Controlling aircraft noise and sonic boom. Under that section, the FAA is charged with prescribing regulations to measure and abate aircraft noise. This rulemaking is also promulgated under the authority of Section 47534, prohibition on operating certain aircraft weighing 75,000 pounds or less and not complying with Stage 3 noises levels. That authority directs the agency to prescribe regulations necessary to implement the requirements of Section 506 of the Act. This regulation is within the scope of that authority.

I. Overview of This Final Rule

This final rule adopts into the operating rules certain prohibitions from Section 506 of the Act, codified at 49 USC 47534. That statute prohibits, after December 31, 2015, the operation in the contiguous United States of jet airplanes weighing 75,000 pounds or less that do not meet Stage 3 noise levels as defined in 14 CFR Part 36. This prohibition will decrease airplane noise in the contiguous United States. Operators of these airplanes that do not comply with Stage 3 noise levels may choose to replace them, or to incorporate noise-reduction technologies that may be available to make the airplanes Stage 3 noise compliant.

II. History of Noise Operating Rules in the United States

In December 1976, the FAA adopted its first noise operating rules in the United States as Subpart E to Part 91 of Title 14 of the Code of Federal Regulations (14 CFR). That subpart was recodified in August 1989 as Subpart I—Operating Noise Limits. The first regulations prohibited the operation of Stage 1 airplanes by U.S. operators in the United States after December 31, 1984 (41 FR 56046, December 23, 1976). In November 1980, the regulations were amended to

include operations conducted by foreign operators in the United States (45 FR 79302, November 28, 1980).

By the late 1980s, more than 400 U.S. airports had adopted some type of airport access restriction or other action in an effort to reduce local noise in their communities. To eliminate this growing patchwork of restrictions, on November 5, 1990, Congress established a national noise policy in the adoption of the Airport Noise and Capacity Act of 1990 (ANCA). The law required the phase-out of Stage 2 airplanes weighing over 75,000 pounds operating in the contiguous United States. The phase-out was completed on December 31, 1999, leaving only Stage 3 large jets operating in the contiguous United States.

III. Recent Statutory Changes

The noise from smaller jet airplanes continues to have an impact on communities near airports. In recognition of this impact, Congress addressed the operations of these airplanes in the Act. Section 506 of the Act states:

“[A]fter December 31, 2015, a person may not operate a civil subsonic jet airplane with a maximum weight of 75,000 pounds or less, and for which an airworthiness certificate (other than an experimental certificate) has been issued, to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with [S]tage 3 noise levels.”

The law is applicable to operations in the 48 contiguous United States. The law also provides for operation of otherwise prohibited airplanes after that date under certain circumstances.

This final rule codifies into the regulations of 14 CFR part 91 the operating prohibition of § 47534 (a), and the circumstances for which otherwise prohibited operations may be conducted as listed in § 47534 (c). The circumstances are similar to those that were allowed under the 1990 statute that were codified in 14 CFR § 91.858.

This prohibition is being codified into the operating rules as § 91.881. Because Congress included operational circumstances in the Act that were not included in ANCA, we are codifying them separately as § 91.883 to prevent confusion with the circumstances applicable to larger jet airplanes.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Public Law 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to

that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination is as follows:

This rule implements those provisions of the Act that prohibit the operation of civil jet airplanes weighing 75,000 pounds or less in the 48 contiguous United States after December 31, 2015, unless they comply with Stage 3 noise levels. This part of the Act completes the elimination of Stage 2 jet airplane noise that was begun in 1990 with the Airport Noise and Capacity Act of 1990 (ANCA), which phased out civil jet airplanes weighing over 75,000 pounds from operating at Stage 2 noise levels, by the end of 1999. As Congress mandated this phase-out, the benefits of the phase-out are presumed to exceed the costs.

The Act affects 457 registered owners of 599¹ airplanes that range between 25 to 50 years in age. Four hundred and three of the registered owners (88 percent) have only one airplane affected by the ban; 51 of the owners have 2 to 10 affected airplanes; and three owners (all nonscheduled airlines) have a combined total of 51 airplanes affected by the ban.

**Operator Categories for Civil Stage 2 Jet Airplanes
Weighing 75,000 Pounds or Less**

Operator Category	# of Owners	# of Airplanes
Corporation (Non-Airline)	349	413
Nonscheduled Airline	55	128
Leasing Company/Broker/Parts Dealer/Etc.	31	35
Private Individual	16	17
Financial Institution	6	6
Grand Total	457	599

Some models of the banned airplanes can be upgraded to Stage 3 noise levels with the installation of a hushkit. A hushkit is a device used for reducing engine noise. Of the 17 models

of airplanes affected by this ban, hushkits had previously been available for six models: the Dassault Falcon 20; the Learjet 23, 24, and 25; and the Gulfstream II and III. An unknown number of these airplanes may have already installed a hushkit.

Currently, the only hushkits available for Stage 2 civil jet airplanes weighing 75,000 pounds or less are for the Gulfstream II and Gulfstream III. There are two companies that perform the Gulfstream engine modifications required to meet Stage 3 noise levels, and each has provided cost estimates to the FAA for this service. The estimates range from \$0.85 million to \$1.50 million. There are 217 Gulfstream IIs and IIIs that can potentially be hushkitted; however, the cost of the hushkit for the Gulfstream II exceeds the recorded value of the airplanes.

The hushkit for the Falcon 20 is no longer manufactured and the Supplemental Type Certificate (STC) for the Learjet engine modification was returned to the FAA. There is no indication that hushkits will be manufactured for these airplanes. Thus, of the 599 airplanes affected by the ban, 382 cannot be made Stage 3 compliant.

Owners of civil Stage 2 airplanes that cannot be made Stage 3 compliant will have three alternatives for complying with the mandate: 1) sell the airplanes for operation outside of the 48 contiguous United States, 2) salvage the airplanes for parts, or 3) scrap the airplanes. The actions of the owners will result in an indeterminate mix of these choices. The FAA uses the retail price of the aircraft as a proxy for its economic value. The true economic cost of the mandate is the pre-law retail price minus the post-law retail price. For the reasons discussed below, the best estimate of the economic cost is the value of the fleet before the mandate minus a couple of special considerations.

The following table provides an estimate of the monetary impact to owners based on the

¹ OAG Aviation Solutions Fleet Database as of November 14, 2012, was used to identify the individual airplanes affected by the ban.

action they may choose to comply with the ban. The table includes the pre-law retail price of selling, scrapping, or hushkitting an airplane by equipment type. Information on airplane salvage value is not available to be included, and with the engines being the most valuable part of these airplanes, the engine value is expected to equal the airplane's scrap value.

Pre-Law Airplane Retail Value and Cost of Hushkit Installation (Per Airplane)

Equipment	# of A/C	Average Retail Value*		Average Scrap Value**	Average Hushkit Installation Cost***
		Low	High		
Dassault Falcon 20C/CF/D/DF/DC/ECM/E/F	69	\$200,000	\$850,000	\$2,118	N/A
Gulfstream II (G-1159/B/TT/SP)	109	\$250,000	\$1,050,000	\$8,075	\$1,162,500
Gulfstream III (G-1159A)	108	\$1,000,000	\$2,200,000	\$8,075	\$1,162,500
Hawker Siddeley HS.125-1/2/3	8	\$167,000	\$200,000	\$2,440	N/A
Hawker Siddeley HS.125-400	7	\$167,000	\$200,000	\$2,440	N/A
Hawker Siddeley HS.125-600	12	\$400,000	\$400,000	\$2,440	N/A
IA1123	1	\$400,000	\$400,000	\$2,261	N/A
Learjet 23	3	\$100,000	\$100,000	\$1,355	N/A
Learjet 24	78	\$100,000	\$280,000	\$1,355	N/A
Learjet 25	143	\$150,000	\$600,000	\$1,355	N/A
Learjet 28	4	\$400,000	\$400,000	\$1,355	N/A
Lockheed L-1329 Jetstar II	13	\$550,000	\$800,000	\$4,845	N/A
Rockwell 1121 Jet Commander	3	\$235,000	\$235,000	2,128	N/A
Rockwell Sabre 40	15	\$235,000	\$290,000	\$2,518	N/A
Rockwell Sabre 50	1	\$235,000	\$235,000	\$2,299	N/A
Rockwell Sabre 60	24	\$235,000	\$330,000	\$2,299	N/A

Pre-Law Airplane Retail Value and Cost of Hushkit Installation (Per Airplane)

Equipment	# of A/C	Average Retail Value*		Average Scrap Value**	Average Hushkit Installation Cost***
		Low	High		
Rockwell UTX/T-39 Sabreliner	1	\$235,000	\$235,000	\$1,759	N/A
Total	599	\$100,000	\$2,200,000	\$4,797	

**Airplane Bluebook Price Digest, Winter 2011*. The Airplane Bluebook Price Digest contains the average retail value, by year, model, and serial number for each airplane affected by the ban. The range in value is primarily due to age (i.e., the older an airplane the lower its retail value versus a newer model of the same airplane). Note that this reflects the pre-law airplane value. The post-law values have yet to be determined but they are expected to be lower than the values shown in the table.

**Average scrap value is based on information provided by two companies that perform this work. It does not include incidental expenses associated with delivery of the airplane to a scrap yard

***Average hushkit installation cost is based on four estimates provided by two companies that perform this work.

The value of these airplanes before this mandate equals their retail value at that time. To determine the pre-law retail value, the *Airplane Blue Book Price Digest*² was used. The “Digest” provides average retail values for airplanes by model, year, and serial number. It is only a guide since the actual condition and upgrades to individual airplanes are not known. For the small minority of airplanes affected by the ban but not listed in the “Digest,” a proxy is used based on an airplane of similar type and year. The average pre-law retail value equals the sum of the listed retail value for each of the 599 airplanes. This summation equals \$355.5 million (\$271.2 million in the year 2016 using 7 percent present value), which is the maximum economic cost for the mandate.

To comply with the mandate and to mitigate economic losses, owners will most likely attempt to sell their Stage 2 airplanes to operators outside of the United States. However, such an action will create a glut in the marketplace. Furthermore, with the Stage 2 ban in effect in the lower 48 states, this further reduction in operating space reduces these airplanes’ value to

² Winter 2011 Edition.

potential buyers.

A Limited World-Wide Market

Many countries have already preceded the U.S. in either banning or legislating limited operations of these airplanes. At least eight countries already ban Stage 2 operations by airplanes of any size. These countries include Australia, Austria, Belgium, Hong Kong, Japan, Macau, Singapore, and Switzerland.³ The inability to operate the Stage 2 airplanes across all borders will reduce their desirability for ownership.

Excluding the United States, there are 50 countries that have a total of 392 registered airplanes like those banned in the United States. Almost 50 percent of these jets are registered in Mexico. The U.S. ban on Stage 2 operations reduces the value of these airplanes in Mexico as a large potential destination for operators is lost. The limited world-wide market hinders an owner's ability to sell a banned airplane at the pre-law retail value.

**Foreign Countries with Registered Stage 2 Airplanes
Weighing 75,000 Pounds or Less**

Rank	Country	# of Airplanes	% Share*
1	Mexico	182	46.4
2	Republic of South Africa	25	6.4
3	Venezuela	24	6.1
4	Iran	17	4.3
5	United Kingdom	16	4.1
6	Brazil	14	3.6
7	France	13	3.3
8	Argentina	12	3.1
9	Republic of Congo	7	1.8
10	Saudi Arabia	7	1.8
11	Dominican Republic	6	1.5
12	Spain	5	1.3
13	Bolivia	4	1.0
14	Canada	4	1.0
15	Ecuador	4	1.0
16	India	4	1.0
17	Libya	3	0.8

³ Additionally, other countries have noise restrictions in place or legislation enacted to limit their operation.
http://www.qtaerospace.com/noise_report.htm

**Foreign Countries with Registered Stage 2 Airplanes
Weighing 75,000 Pounds or Less**

Rank	Country	# of Airplanes	% Share*
18	Pakistan	3	0.8
19	Cameroon	2	0.5
20	Egypt	2	0.5
21	Israel	2	0.5
22	Malaysia	2	0.5
23	Morocco	2	0.5
24	Nigeria	2	0.5
25	Sudan	2	0.5
26	Syria	2	0.5
27	Turkey	2	0.5
28	Ukraine	2	0.5
29	Angola	1	0.3
30	Bahrain	1	0.3
31	Chad	1	0.3
32	Chile	1	0.3
33	Comoros Islands	1	0.3
34	Eritrea	1	0.3
35	Gabon	1	0.3
36	Ghana	1	0.3
37	Guatemala	1	0.3
38	Indonesia	1	0.3
39	Italy	1	0.3
40	Ivory Coast	1	0.3
41	Japan	1	0.3
42	Philippines	1	0.3
43	Portugal	1	0.3
44	Russia	1	0.3
45	Senegal	1	0.3
46	Sweden	1	0.3
47	Togo	1	0.3
48	United Arab Emirates	1	0.3
49	Uruguay	1	0.3
50	Zimbabwe	1	0.3
	Total	392	100.0%
	United States	599	
	Grand Total	991	

* Totals in table may exactly add due to rounding.

“Scrappage” of Banned Airplanes

A lack of demand for the banned airplanes will leave most owners with no choice other than to sell the airplanes for their scrap value. The salvage value is likely to equal the scrap

value. The single most valuable part on the airplane is the engines which after the ban have essentially no value. Secondly, the round-dial instrumentation used in the affected fleet is largely obsolete with a small used market.

Hushkits

Other than their sale and scrappage, the remaining option is to hushkit the Gulfstreams. In November 2012, there were 217 Gulfstream II and III airplanes registered in the United States. At that time, these airplanes had a pre-law retail value ranging from \$250,000 to \$2.2 million. Gulfstream owners will have to weigh the cost of hushkitting against not having use of the airplane.

The cost to hushkit a Gulfstream II or III will average between \$0.85 to \$1.5 million, per airplane. This cost exceeds the pre-law retail value for most Gulfstream II's. The measure of economic loss for the Gulfstream II equals its pre-mandate value (assuming very few have been sold since that date). However, for a majority of the Gulfstream III's, the cost to hushkit is less than its pre-law retail value. If all Gulfstream III owners hushkit their airplanes the economic loss is the cost of the hushkit which equals \$125.6 million.

For the owners of the remaining 491 airplanes, the economic cost is \$204.3 million. This cost equals their pre-mandate resale value excluding some minor salvage value. Additionally some of these airplanes may have been sold to foreign buyers. The total economic loss equals the Gulfstream III hushkit loss of \$125.6 million plus the \$204.3 million equaling \$329.9 million, or in present value \$251.7 million using 7 percent.

Costs by Action and Number of Aircraft			
Action	Number of Aircraft	Millions of 2012\$	Present Value in 2016 at 7% Discount Rate - Millions of 2012\$
Hushkit	108	\$ 125.6	\$ 95.8
Scrapped/Sold Aircraft	491	204.3	155.9
Total	599	\$ 329.9	\$ 251.7

Since Congress has mandated the prohibition on the operation of certain airplanes weighing 75,000 pounds or less that do not comply with Stage 3 noise levels, Congress has determined that the benefits exceed the costs. The FAA has determined that this final rule is a significant regulatory action as defined in section 3(f) of Executive Order 12866, and is significant as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Public Law 96-354) (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.” To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Estimated Number of Small Firms Potentially Impacted

The Act requires that (except as otherwise noted) after December 31, 2015, civil subsonic

jet airplanes with a maximum weight of 75,000 pounds or less and for which an airworthiness certificate (other than an experimental certificate) has been issued, shall not be operated to or from an airport in the United States unless the Secretary of Transportation finds that the airplane complies with Stage 3 noise levels. The purpose of this statutory provision is to reduce noise levels at airports and the communities surrounding them across the United States.

Under the RFA, the FAA must determine whether a proposed rule significantly affects a substantial number of small entities. This determination is typically based on small entity size and revenue thresholds that vary depending on the affected industry.⁴ To determine the number of small entities affected by the mandate, we searched a commercially available airplane fleet database.⁵ The search results identified five operator categories consisting of 457 entities that own 599 airplanes. The entities consist of privately held corporations, financial institutions, leasing companies, non-scheduled airlines, and private individuals. In most cases, the size of the entities cannot be determined because financial and employment data for privately held entities is sparse. Nevertheless, the number of small business entities is believed to be substantial.

Of the 599 affected airplanes, over half (382 airplanes) cannot be converted to Stage 3 noise levels because there are no modifications currently available. Owners of airplanes that are unable to modify their airplanes may choose to 1) sell their airplanes to an entity whose operations are not constrained by noise restrictions, 2) salvage the airplanes for parts, or 3) sell the airplanes for scrap value. For the remaining 217 airplanes that are able to be converted to Stage 3 noise levels, owners will have to determine if the benefit of operating the airplanes outweighs the cost of making the airplanes Stage 3 noise compliant and the higher operating

⁴ Thresholds are based on the North American Industry Classification System (NAICS). The NAICS is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

⁵ OAG Aviation Solutions Fleet Database as of November 14, 2012.

costs are worth the expense.

As the effective date of the prohibition approaches (January 1, 2016), the resale value of any remaining airplanes in the U.S. fleet will fall dramatically, ultimately to zero. In addition, the value of the entire world fleet of these Stage 2 airplanes will be reduced with the influx of U.S. airplanes available for sale and the prohibition of foreign Stage 2 airplanes from operating in the U.S. Complying with the congressional mandate creates a significant economic impact for owners since the compliance cost requires an owner to either forego the use of its airplane or to purchase one that meets Stage 3 noise levels. Since this rule only places Congress' language of the statutory ban into the civil regulations and has no requirements of its own, the requirements of the Regulatory Flexibility Act do not apply.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Public Law 96-39), as amended by the Uruguay Round Agreements Act (Public Law 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective.

The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that since it implements an action by Congress, the Trade Agreements Act provisions do not apply.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires each

Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$143.1 million in lieu of \$100 million. Although this rule exceeds \$143.1 million the year it takes effect, it implements the direction of Congress and thus Title II of the Act is not applicable.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new information collection associated with the requirement to demonstrate eligibility under the statutory provisions when making a request for special flight authorization for otherwise prohibited jet airplane operations. That information collection requirement previously was approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and was assigned OMB Control Number 2120-0652.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor,

security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

G. Environmental Analysis

This rule implements Section 506 of the Act by adding jets weighing 75,000 pounds or less to the applicability of the operating noise subpart in § 91.801. This rule incorporates the prohibition on operations of small jets not meeting Stage 3 noise levels after December 31, 2015. It also incorporates the special operating circumstances allowed by law for these smaller jets. The environmental impacts of this rule, including the reduction in jet noise in the contiguous United States, and the minor impacts of allowing statutorily limited operations of Stage 2 jets, are a result of the statutory requirements. The FAA has no authority to change any of these statutory provisions or their environmental impact.

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312(f) of the Order and involves no extraordinary circumstances.

IV. Executive Order Determinations

A. Executive Order 12866

See the “Regulatory Evaluation” discussion in the “Regulatory Notices and Analyses” section elsewhere in this preamble.

B. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order

13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

C. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a “significant energy action” under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

V. Additional Information

A. Availability of Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the Internet—

1. Search the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visit the FAA’s Regulations and Policies Web page at http://www.faa.gov/regulations_policies/; or
3. Access the Government Printing Office’s Web page at <http://www.gpoaccess.gov/fr/index.html>.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires

FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the FOR FURTHER INFORMATION CONTACT heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects in 14 CFR Part 91

Aircraft, Operating Noise Limits

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of Title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

2. Amend § 91.801 by adding new paragraph (e) to read as follows:

§ 91.801 Applicability: Relation to part 36.

* * * * *

(e) Sections 91.881 through 91.883 of this subpart prescribe operating noise limits and related requirements that apply to any civil subsonic jet airplane with a maximum takeoff weight of 75,000 pounds or less and for which an airworthiness certificate (other than an experimental

certificate) has been issued, operating to or from an airport in the contiguous United States under this part, part 121, 125, 129, or 135 of this chapter on and after December 31, 2015.

3. Add new § 91.881 to read as follows:

§ 91.881 Final compliance: Civil subsonic jet airplanes weighing 75,000 pounds or less.

Except as provided in § 91.883, after December 31, 2015, a person may not operate to or from an airport in the contiguous United States a civil subsonic jet airplane subject to § 91.801(e) of this subpart unless that airplane has been shown to comply with Stage 3 noise levels.

4. Add new § 91.883 to read as follows:

§ 91.883 Special flight authorizations for jet airplanes weighing 75,000 pounds or less.

(a) After December 31, 2015, an operator of a jet airplane weighing 75,000 pounds or less that does not comply with Stage 3 noise levels may, when granted a special flight authorization by the FAA, operate that airplane in the contiguous United States only for one of the following purposes:

- (1) To sell, lease, or use the airplane outside the 48 contiguous States;
- (2) To scrap the airplane;
- (3) To obtain modifications to the airplane to meet Stage 3 noise levels;
- (4) To perform scheduled heavy maintenance or significant modifications on the airplane at a maintenance facility located in the contiguous 48 States;
- (5) To deliver the airplane to an operator leasing the airplane from the owner or return the airplane to the lessor;
- (6) To prepare, park, or store the airplane in anticipation of any of the activities described in paragraphs (a)(1) through (a)(5) of this section;
- (7) To provide transport of persons and goods in the relief of an emergency situation; or
- (8) To divert the airplane to an alternative airport in the 48 contiguous States on account

of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (a)(1) through (a)(7) of this section.

(b) An operator of an affected airplane may apply for a special flight authorization for one of the purposes listed in paragraph (a) of this section by filing an application with the FAA's Office of Environment and Energy. Except for emergency relief authorizations sought under paragraph (a)(7) of this section, applications must be filed at least 30 days in advance of the planned flight. All applications must provide the information necessary for the FAA to determine that the planned flight is within the limits prescribed in the law.

Issued under authority provided by 49 U.S.C. 106(f) and 47534 in Washington, DC, on June 18, 2013.

Michael P. Huerta
Administrator

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